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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,593	05/17/2004	Reiner Kreyenkamp	604041	3592
30008 7590 09/20/2007 GUDRUN E. HUCKETT DRAUDT SCHUBERTSTR. 15A WUPPERTAL, 42289 GERMANY			EXAMINER AYRES, TIMOTHY MICHAEL	
			ART UNIT	PAPER NUMBER
			3637	
			MAIL DATE	DELIVERY MODE
			09/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/709,593	KREYENKAMP, REINER	
	Examiner	Art Unit	
	Timothy M. Ayres	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 May 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/25/05</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

This is a first office action on the merits of application SN 10/709,593.

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the cabinet drawer is pivotable by a drive in claim 8 and an actuator that operates by hydraulic actuation, pneumatic actuation, electric actuation, and magnetic actuation of claim 11 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

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of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claims 10 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 10 is dependent upon itself, for examination purposes it is assumed to be dependent upon claim 9 since claim 9 recites "a first locking device".

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 8 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

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One of ordinary skill in the art would not understand how to make the cabinet drawer pivotable by a drive.

6. Claim 11 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

One of ordinary skill would not understand how to make the locking devices with an actuator that is actuated by hydraulic, pneumatic, electric, or magnetic actuation in the given space and configuration without undue experimentation.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. Regarding claim 3, the phrase "a size providing a pinching protection or finger protection" is indefinite since it relates to an infinitely variable size, (fingers or pinching). It is also indefinite since it is unclear as to what the metes and bounds of the claim are, finger protection or pinching protection.

10. Regarding claim 8, the phrase "manually or by a drive" is indefinite since it is unclear as to that the metes of bounds of the claims, it is unclear if the drawer pivoted by a user or a drive.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1, 3, 9, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 6,199,966 to Fulterer. Fulterer teaches a tall cabinet (1) with a pullout device. The pullout device comprises upper and lower pullout rails (28, 39). A frame (40) moves on the guide parts. Shelf members (45) are connected to the frame. The frame is composed of a vertical longitudinal front support (41) to support a cabinet door (29) and a vertical longitudinal rear support (42). When the pullout device is in the extend position as seen in figure 26, a gap is formed between the vertical longitudinal rear support and the opening plane of the cabinet body. A first locking mechanism includes hooks and openings as described in column 9, lines 5-65 and figures 17-23, which blocks return movement of the frame when it is the extended position.

13. Claims 1-7 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by European Patent EP 0082219 to Mormont. Mormont teaches a tall cabinet with a pullout device having upper and lower rails (6) as guide parts. The pullout device has a frame

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(13) with a front being a door and the rear having bearings (8). The bottom of the frame has shelf members divided by partitions (16). The rear of the pullout device extends beyond the opening of the cabinet as seen in figure 3.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 2, 4-8, and 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,199,966 to Fulterer in view of US Patent 3,146,048 to Graham. Fulterer discloses every element as claimed and discussed above except the frame pivoting and the details of the mechanism to allow the pivoting. Graham teaches a cabinet (12) with a frame (10) and door (14) supported by pullout rails (24). Bearings (78,88,84) connect the frame to the guide parts. A second locking device (80, 100,112,22,114) lock the rotation of the frame by using notches (82) that allow the frame to pivoted to stepped pivot positions that are 90 degrees up or down, 45 degrees up or down, and a central position. A first locking mechanism (34,38,40,20,50,56, 52, 46) comprises a spring (50) forcing pins (34,38) to lock the guide parts (24) in the extended position or a storage position. While the frame is in the rotated position, the pins (34,38) would not be able to be unlocked since the release mechanism (20,58,52)

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would not be aligned with rod (46) which acts on the pins (34,38) and thereby preventing the frame to withdraw into the cabinet while the frame is pivoted. At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the pullout device of Fulterer by adding the pivot apparatus including locking mechanism to both the upper and lower guides as taught by Graham to permit rotation of the frame to facilitate access the contents of the frame while allowing the device to be locked and unlocked safely and with a minimum amount of force.

Conclusion

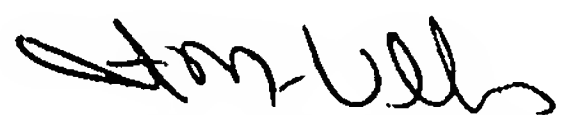
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Ayres whose telephone number is (571) 272-8299. The examiner can normally be reached on MON-THU 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TMA
9/17/07



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